

ENGR-INFO (4)

HEADQUARTERS  
FORT HUACHUCA, ARIZONA

AMFAR-CC 601.

*Real Estate*

*25 May 1951*

SUBJECT: Legal Status of Fort Huachuca

TO: Commanding General  
Sixth Army  
Presidio of San Francisco, California

1. There is no record at this headquarters to indicate that the Department of the Army has any legal titles or rights to the grounds, buildings, or other real property at Fort Huachuca. Inquiry at the Phoenix office of the Los Angeles District Engineer did not develop any documents on this matter. From a conversation with a Mr. Atkinson of the Phoenix office of the Los Angeles District Engineer, the following sketch of the legal history of the post subsequent to 1946 was obtained:

The post was declared surplus by the Department of the Army and claimed by the Department of the Air Force. After some months the Air Force relinquished it. A lot of the buildings and equipment were sold by the WAA, and then it was given part to the State of Arizona and part to the Arizona National Guard, with a twenty year recapture clause. The state sold some buildings, rented others on a ten year lease, rented some land, and turned some land over to the Public Domain.

The recapture was in the form of a letter from the Department of the Air Force to the Governor of Arizona stating that the Air Force was going to exercise the option under the recapture clause and reclaim part of the original post. There is no further record according to Mr. Atkinson. It would appear that there is some doubt as to the authenticity of the title of the Department of the Army to the Fort Huachuca reservation.

2. Information on the following appears desirable:

a. Does the U. S. Army have exclusive Federal jurisdiction on the post? We were informed that a new Arizona law permits such rights.

b. Copies or information concerning the agreement or agreements with the Southern Pacific Railway Company covering their rights of way and the ownership of the lands and buildings which they now use.

*Copy for the Historical Value*

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c. Copies or information concerning the agreement with the El Paso Gas Company covering the pipe line into the reservation, and the ownership of the various meters, fences, gas reducers, etc., on the property.

d. The status of the cemetery and access road thereto, which it is understood were deeded to the State of Arizona on condition that the cemetery would be kept up. The cemetery was not kept up and possibly could revert to the Federal Government. However, the question arises, could military personnel be interred in the cemetery and do we have authority to expend money for the care of the cemetery and access road? A corollary question is, how far the access road extends, that is, whether it is considered to be from the gate at Fry or from the turn off near the Bonnie Slink housing area?

e. Two game rangers, who are employed by the State of Arizona, are currently quartered in civilian houses on the post. While it is recommended that these two men remain here, the question is, whether or not we can charge them rental or whether they are entitled to stay under the original deed to the State of Arizona when the State took over the property?

f. The cold storage plant has been rehabilitated at considerable expense to the Government and its ownership is in some doubt. It is understood that a claim is in process against the Government by the man who purchased it from the State of Arizona.

g. There is some reason to believe that a Mr. Lonnie Hunt, who operates the Lamy guest ranch, and who is a tenant of the State of Arizona, is either within the reservation boundary or will be within the reservation boundary if the northeast artillery range is reclaimed for the use of the post. It is expected that a request for the reclamation of this range will be forwarded shortly.

h. One of the very old buildings on the post may have to be torn down as a possible fire hazard. Is the authority for this action within the Department of the Army, or would permission have to be obtained from the National Guard of the State of Arizona, the Arizona Game and Fish Commission, the State of Arizona, or the U. S. Air Force, all of whom might have some legal rights in the area?

i. The question of ownership of the fire department apparatus was also raised. The equipment has been transferred with the buildings since 1947 as described in para. 1 above. At present, the Post Engineer

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has signed informal receipts to the Resident Engineer for this equipment. If retained by the Army, it must receive major overhaul or be replaced entirely. The propriety of expending appropriated funds on the equipment is questionable until ownership is firmly established.

2. In view of the fact that as Post Commander I have authorized expenditures of considerable sums of appropriated funds for various purposes on the post, I am highly desirous of determining accurately the legal status of Fort Huachuca.

ALEXANDER O. KIRBY  
Colonel, ARTY  
Commanding

Cy furnished:

Mr. Atkinson, Phoenix

Mr. Smiddy, Fort Huachuca

Post Engineer